

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: July 12, 2011
POSITION: Oppose
SPONSOR: Natural Resources Defense Council, State
Building and Construction Trades Council

BILL NUMBER: SB 454
AUTHOR: F. Pavley

BILL SUMMARY: Energy Efficiency Standards

Existing law requires the California Energy Commission (CEC) to adopt energy efficiency regulations for new construction and residential and commercial building remodeling. Existing law also requires the CEC to adopt regulations specifying energy efficiency standards for appliances sold in California.

Existing law establishes the Contractors State License Board (CSLB) and requires the CSLB to license and regulate California's construction contractors and to specify construction work for which a permit is required to ensure the work contractors complete complies with regulations, including energy efficiency regulations.

This bill would authorize the California Energy Commission (CEC) to establish an administrative enforcement process to enforce appliance efficiency standards and assess civil penalties for efficiency standard violations. The bill would require the CEC to deposit any penalty revenues received in the Appliance Efficiency Enforcement Subaccount, which the bill would establish in the Energy Resources Program Account. The bill would require the court, upon granting of relief for a violation of the standards, to award the CEC reasonable costs incurred to investigate and prosecute the violation.

FISCAL SUMMARY

Both the CEC and CSLB estimate minor and absorbable cost to implement the bill. However, the Department of Finance (Finance) notes the bill provides the CEC with authority to develop an enforcement process but does not require it. Should the CEC, consistent with the bill's intent, actually develop, implement, and oversee appliance efficiency standards enforcement and investigate and fine non-compliant manufacturers, the enforcement costs could be considerable.

While the bill would authorize the CEC to collect civil penalties, it is unknown whether penalty revenue collection could cover the ongoing cost of program administration. To the extent penalty revenues are insufficient to support program administration and enforcement costs, these costs would be borne by the Energy Resources Programs Account, a fund for which existing CEC activities costs already exceed ongoing revenue. CEC costs to contract with the Attorney General for legal support are unknown, and would depend on enforcement program scope.

The California Constitution requires the state to reimburse local government for costs of any program or increased level of service mandated by the Legislature or a state agency. Local government costs resulting from this measure would not be state reimbursable because the mandate only involves the definition of a crime. Section 6 of the bill contains an appropriate state-mandated cost reimbursement disclaimer.

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Analyst/Principal (0623) J. McGuinn	Date	Program Budget Manager Karen Finn	Date
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Department Deputy Director	Date
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Governor's Office:	By:	Date:	Position Approved _____
			Position Disapproved _____

BILL ANALYSIS	Form DF-43 (Rev 03/95 Buff)
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COMMENTS

The Department of Finance is opposed to the bill for the following reasons:

- Supporting ongoing program administration with uncertain and intermittent civil penalty revenues is not prudent fiscal policy.
- The minor and absorbable cost estimate the CEC identifies appears inconsistent with the level of resources required to oversee a standards enforcement program consistent with the findings and declarations in the bill stating "significant quantities of appliances are sold and offered for sale in California that do not meet the state's efficiency standards."
- The tax supporting revenue to the Energy Resources Program Account (ERPA) is near its statutory maximum. In November 2010, the surcharge was increased from 0.00022 per kilowatt hour to 0.00029 per kilowatt hour. The statutory cap is 0.0003 per kilowatt hour. The ERPA has a structural deficit in which ongoing expenditures exceed ongoing revenues, therefore future program cuts or an increase in the tax's statutory maximum will be required in the future to support existing program activities.

According to the author's office, this bill will increase compliance with the state's energy efficiency regulations for buildings and appliances. The bill also is intended to provide better enforcement against manufacturers who sell appliances not certified as meeting the California's appliance efficiency regulations to ensure California realizes the energy savings regulatory compliance is designed to achieve.

The bill would authorize the CEC to assess an administrative civil penalty not to exceed two thousand five hundred dollars for each violation of the state's energy efficiency standards. The bill would require, in assessing the penalty, the CEC to consider all of the following factors:

- The nature and seriousness of the violation.
- The number of violations.
- The persistence of the violation and the length of time over which the violation occurred.
- The willfulness of the violation and the violator's assets, liabilities, and net worth.

The bill would require penalties collected pursuant to the bill to be deposited into the Appliance Efficiency Enforcement Subaccount (Subaccount), which the bill would establish within the ERPA and authorize expenditures from the Subaccount, upon appropriation by the Legislature, for public education regarding appliance energy efficiency and for the enforcement of the regulations.

The bill would require any rebates or incentives offered by a public utility for an energy efficiency improvement or installation of energy efficient components, equipment, or appliances in buildings be provided only if the recipient certifies the improvement or installation has complied with any applicable permitting requirements and, if a contractor performed the installation or improvement, that the contractor holds the appropriate license for the work performed.

BILL ANALYSIS/ENROLLED BILL REPORT--(CONTINUED)**Form DF-43****AUTHOR****AMENDMENT DATE****BILL NUMBER**

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Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)							
	LA	(Dollars in Thousands)							
	CO	PROP							Fund
	RV	98	FC	2011-2012	FC	2012-2013	FC	2013-2014	Code
1230/Contractors	SO	No	-----	See Fiscal Summary	-----				0735
3360/Energy Comm	SO	No	-----	See Fiscal Summary	-----				0465
3360/Energy Comm	SO	No	-----	See Fiscal Summary	-----				0499

<u>Fund Code</u>	<u>Title</u>
0465	Energy Resources Programs Account
0499	Pending New Special Funds
0735	Contractors' License Fund